UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,036	01/21/2004	Stephen J. Todd	EMS-274US	3938

52427   7590   09/04/2009
MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY, SUITE 1001
WESTBOROUGH, MA 01581

EXAMINER
LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
09/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *25 June 2009*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *29,30,33-46,49-62 and 65-91* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *29,30,33-46,49-62 and 65-91* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some *   c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Status

Claims 29, 30, 33-46, 49-62 and 65-91 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 29 recites "retrieving first information associated with the unit of data that identifies a manner of accessing second information specifying the previously-defined retention period for the unit of data." The specification does not describe the claimed "manner of accessing second information." Furthermore, applicant's response filed 6/25/2009 does not point to the specification in any meaningful way regarding "retrieving first information associated with the unit of data that identifies a manner of accessing second information specifying the previously-defined retention period for the unit of data." The rejection under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is maintained. Examiner will give above limitation its broadest reasonable interpretation.

Claim 29 recites "using the first information and the record stored on the at least one storage system to retrieve the second information specifying the previously-defined retention period for the unit of data." The specification does not describe above claim limitation. Examiner will give above claim limitation its broadest reasonable interpretation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 29, 30, 33-46, 49-62 and 65-91 are rejected under 35 U.S.C. 102(e) as being anticipated by Hochberg et al (US 2005/0055518).

Regarding claim 29, 45, 61, 73, Hochberg discloses

(A) receiving a request, from the host, to delete a unit of data stored on the storage system [Hochberg, Fig 8, step 230, receive request to delete an object]

(B) in response to the request, determining whether a previously-defined retention period for the unit of data has expired by performing the acts of: [Hochberg, Fig 8, step 246, does current time minus retention period start/exceed retention period]

(B1) retrieving first information associated with the unit of data, that identifies a manner of accessing second information specifying the previously-defined retention period for the uniot of data [paragraph 19, retention protection setting 16 controlling the extent to which the archive

program 12 permits users to remove or modify information in the database 14 and archived

objects from the archival storage 4]

wherein the first information includes information identifying a retention class to which the unit

of data belongs [retention class = different archival policies, paragraph 21

wherein the second information is the previously-defined retention period for the retention class

that defines a period of time during which units of data belonging to the retention class cannot be

deleted from and/or modified on the at least one storage system,

[paragraph 21, retention period during which the object must be maintained in the archival

storage 4]

and wherein that at least one storage system stores a record associating the retention period with

the retention class

[paragraph 21, 9, archive database 14, Fig 2]

(B2) using the first information and the record stored on the at least one storage system to

retrieve the second information specifying the previously defined retention period for the unit of

data [paragraph 45, Fig 7, increase in the retention period]

(C) when it is determined in the act (B) that the retention period for the unit of data has not

expired, denying the request to delete the unit of data

[paragraph 24, retention period has not expired, request to remove object is denied]

Regarding claim 30, 46, 62, Hochberg discloses further comprising an act (D) of deleting the unit

of data when it is determined in the act of (B) that the retention period for the unit of data has

expired [paragraph 30]

Regarding claim 33, 49, Hochberg discloses

(D) receiving, at the at least one storage system, a second request from the at least one host,

requesting that the at least one storage system modify the retention period of the retention class

[Hochberg, paragraph 23]

Regarding claim 34, 50, 65, Hochberg discloses wherein the second request is a request to reduce

the retention period of the retention class [Hochberg, paragraph 22]

Regarding claim 35, 51, Hochberg discloses wherein the second request is a request to increase

the retention period of the retention class [Hochberg, paragraph 23]

Regarding claim 36, 52, Hochberg discloses modifying the second information specifying the

retention period in response to the second request [Hochberg, paragraph 23]

Regarding claim 37, 53, Hochberg discloses modifying the second information without

modifying the content of the unit of data [Hochberg, paragraph 23, 24]

Regarding claim 38, 54, 66, Hochberg discloses wherein the second request comprises an event

command indicating the occurrence of an event [Hochberg paragraph 23]

Regarding claim 39, 55, 67, Hochberg discloses wherein the event command does not specify the

manner in which the retention period of the retention class is to be reduced, and wherein the act

(D) further comprises an act of determining the manner of reducing the retention period of the

retention class by referring to information stored within or accessible to the storage system

[Hochberg, paragraphs 23, 24]

Regarding claim 40, 56, 68, 79, Hochberg discloses wherein the second request specifies the

manner in which the length of the retention period of the retention class is to be reduced

[Hochberg, paragraph 22]

Regarding claim 41, 57, 69, Hochberg discloses (D 1) determining whether the retention period

for the retention class is permitted to be reduced; and

(D2) reducing the retention period only when the retention period for the retention class is

permitted to be reduced [Hochberg, paragraph 24]

Regarding claim 42, 58, 70, Hochberg discloses determining whether the retention period of the

retention class is designated as capable of being reduced [Hochberg, paragraph 24]

Regarding claims 43, 59, 71, Hochberg discloses wherein the act (D1) further comprises

determining whether the retention period of the retention class is designated as capable of being

reduced by examining the retention period [Hochberg, paragraphs 23 and 24]

Regarding claim 44, 60, 72, Hochberg discloses determining whether the retention period of the

retention class is designated as capable of being reduced by examining a flag associated with the

retention class [Hochberg, paragraph 31]

Regarding claim 74, 76, 80, 82, 86, 88, Hochberg discloses: a method of processing data in a

computer system comprising at least one host [Fig 1 archive server 2] and at least one storage

system [Fig 1, archival storage 4] that stores a plurality of data units belonging to a retention

class, wherein the retention class specifies a retention period, each of the plurality of data units

belonging to the retention class and wherein the method comprises an act of:

retention class = different archival policies, paragraph 21

retention period = archival policy specifies a retention period, paragraph 21

transmitting a request from the at least one host to the at least one storage system to modify the

retention period [paragraph 45, Fig 7, increase the retention period] specified by the retention

class, wherein the at least one storage system stores a record associating a plurality of previously

defined retention periods [paragraph 21, 9, archive database 14, Fig 2]

and wherein the request to modify the retention period specified by the retention class causes a

corresponding modification of the record thereby modifying a period of time during which the

plurality of data units belonging to the retention class cannot be deleted from and/or modified on

the at least one storage system [paragraph 21, retention period during which the object must be

maintained in the archival storage 4]

Regarding claim 75, 81, 87, Hochberg discloses wherein the request to modify the retention

period is a request to reduce the retention period specified by the retention class [paragraph 39]

Regarding claim 77, 83, 89, Hochberg discloses wherein the request comprises an event

command indicating the occurrence of an event [paragraph 39]

Regarding claim 78, 84, 90, Hochberg discloses wherein the event command does not specify the

manner in which the retention period of the retention class is to be reduced [paragraph 79]

Regarding claim 79, 85, 91, Hochberg discloses wherein the request specifies that the retention

period specified by the retention class be reduced and the manner in which the length of the

retention period of the retention class is to be reduced [paragraph 40, Fig 5]

Response to Arguments

Applicant's arguments filed 6/25/2009 have been considered but are moot in view of the

new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022.

The examiner can normally be reached on Monday through Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Etienne P LeRoux/
Primary Examiner, Art Unit 2161

9/1/2009